

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**WILLIAM KEITH WININGEAR, et al,**

**Plaintiffs,**

**v.**

**Civil Action No. 2:12cv560**

**CITY OF NORFOLK, VIRGINIA,**

**Defendant.**

**ORDER**

The Plaintiffs having moved for conditional certification of their Fair Labor Standards Act ("FLSA") claims under 29 U.S.C. §216(b) and for Rule 23 class certification under claims arising from Va. Code §9.1-700, et seq., and having considered the arguments and submissions of counsel, it is hereby ORDERED as follows:

1. This action is hereby certified conditionally as a collective action under the FLSA, 29 U.S.C. §216(b), with respect to all claims asserted under Count I of Plaintiffs' Complaint, for all FLSA non-exempt and/or hourly law enforcement officers employed by the City of Norfolk between October 10, 2009 and the present date who were improperly denied overtime compensation under the FLSA.

2. The Notice attached to Plaintiffs' Memorandum in Support of Motion for Conditional Collective Action Certification Pursuant to 29 U.S.C. §216(b) and Plaintiffs' Motion for Class Certification Pursuant to Fed. R. Civ. P. 23 (the "Memorandum") as Exhibit 6 shall be issued to all Norfolk law enforcement officers who were non-exempt under the FLSA, and/or paid by the hour, and performed any work for the City between October 10, 2009 and the present date. Said officers shall be fully identified to counsel for Plaintiffs, to include all available contact information, within 14 days of the date of this Order.

**EXHIBIT 7**

3. A class is hereby certified pursuant to Fed. R. Civ. P. 23 of:

All City of Norfolk law enforcement officers who performed any work for the City between October 10, 2009, and the present date, who were non-exempt under the FLSA and/or paid by the hour and who were improperly denied overtime compensation under Va. Code §9.1-700, et seq.

4. The class claims for the Fed. R. Civ. P. 23 class certified in the immediate preceding sub-paragraph shall include those claims asserted under Count II of Plaintiffs' Complaint, originally filed on behalf of all Plaintiffs and officers similarly situated, and which arise under Va. Code §9.1-700, et seq.

5. The law firms of Patten, Wornom, Hatten & Diamonstein, L.C. and Richard J. Serpe, P.C., and individual counsel James H. Shoemaker, Jr., Richard J. Serpe, Cindra P. Dowd, Jason E. Messersmith and Patricia A. Melochick are appointed as class counsel for the classes and collective actions certified herein.

It is so ORDERED.

ENTER: \_\_\_\_\_

\_\_\_\_\_  
United States District Judge

WE ASK FOR THIS:

**WILLIAM KEITH WININGEAR, et al**

By: \_\_\_\_\_  
James H. Shoemaker, Jr., VSB No. 33148  
Jason E. Messersmith, VSB No. 77075  
Patricia A. Melochick, VSB No. 80694  
Patten, Wornom, Hatten & Diamonstein, L.C.  
12350 Jefferson Avenue, Suite 300  
Newport News, Virginia 23602  
Telephone: (757) 223-4580  
Facsimile: (757) 223-4518  
[jshoemaker@pwhd.com](mailto:jshoemaker@pwhd.com)  
[jmessersmith@pwhd.com](mailto:jmessersmith@pwhd.com)  
[pmelochick@pwhd.com](mailto:pmelochick@pwhd.com)

Richard J. Serpe, VSB No. 33340  
Cindra Dowd, VSB No. 33819  
Law Offices of Richard J. Serpe, P.C.  
Crown Center, Suite 310  
580 East Main Street  
Norfolk, Virginia 23510-2322  
Telephone: (757) 233-0009  
Facsimile: (757) 233-0455  
[rserpe@serpefirm.com](mailto:rserpe@serpefirm.com)  
[cdowd@serpefirm.com](mailto:cdowd@serpefirm.com)

SEEN:

**CITY OF NORFOLK, VIRGINIA**

By: \_\_\_\_\_  
Andrew Fox, VSB No. 68154  
Office of the City Attorney  
810 Union Street, Room 900  
Norfolk, Virginia 23510  
Telephone: (757) 664-4529  
Facsimile: (757) 664-4201  
[Andrew.fox@norfolk.gov](mailto:Andrew.fox@norfolk.gov)